

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ARISTA RECORDS LLC; ATLANTIC
RECORDING CORPORATION; ARISTA
MUSIC, fka BMG MUSIC; CAPITOL
RECORDS LLC fka CAPITOL RECORDS,
INC.; ELEKTRA ENTERTAINMENT
GROUP INC.; INTERSCOPE RECORDS;
LAFACE RECORDS LLC; MOTOWN
RECORD COMPANY, L.P.; PRIORITY
RECORDS LLC; SONY MUSIC
ENTERTAINMENT, fka SONY BMG
MUSIC ENTERTAINMENT; UMG
RECORDINGS, INC.; VIRGIN RECORDS
AMERICA, INC.; and WARNER BROS.
RECORDS INC.,

Plaintiffs,

v.

LIME WIRE LLC; LIME GROUP LLC;
MARK GORTON; GREG BILDSON; and
M.J.G. LIME WIRE FAMILY LIMITED
PARTNERSHIP,

Defendants.

06 Civ. 05936 (KMW)
ECF CASE

**REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFFS' OPPOSITION
TO DEFENDANTS' MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS**

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Date: October 29, 2010

REQUEST FOR JUDICIAL NOTICE

Plaintiffs respectfully request that the Court take judicial notice of the fact that individual tracks of sound recordings by Michael Jackson, including “Just Good Friends,” are publicly available for download purchase on Apple’s iTunes service. *See* Declaration of Jillian Song In Support of Plaintiffs’ Opposition to Defendants’ Motion for Partial Judgment on the Pleadings, ¶ 2 & Exs. A-B.

This fact is judicially noticeable because it is “not subject to reasonable dispute in that it is . . . capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). Pursuant to this standard, courts can and do take judicial notice of well-known methods of retail distribution – *see Carling Brewing Co. v. Philip Morris, Inc.*, 277 F. Supp. 326, 330 (N.D. Ga. 1967) (taking judicial notice of the fact that most retail establishments that sell beer also sell tobacco products) – as well as internet content that is “capable of accurate and ready determination.” *Francarl Realty Corp. v. Town of East Hampton*, 628 F. Supp. 2d 329, 332 n.3 (E.D.N.Y. 2009) *overruled on other grounds*, 375 F. App’x 145 (2d Cir. 2010). Judicial notice is likewise appropriate here.

Dated: October 29, 2010
Los Angeles, CA

Respectfully submitted

/s/ Glenn D. Pomerantz
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